

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ROLAND GUTIERREZ; SARAH
ECKHARDT; and the TEJANO
DEMOCRATS,

Plaintiffs,

V.

GREG ABBOTT, Governor of the State of Texas sued in his official capacity; and, JOSE A. ESPARZA, Deputy Secretary of State of Texas and acting Secretary of State of Texas sued in his official capacity.

Defendants.

CIVIL ACTION NO.
1:21-CV- 00769- RP-JES-JVB
Complaint for Declaratory Judgment
and Injunctive Relief

Proposed Order for Preliminary Injunction

This matter having come before the Court pursuant to Fed. R. Civ. Proc. 65(b) on the application of Plaintiffs for a preliminary injunction and upon consideration of the motion, complaint, and evidence submitted in this matter, including Plaintiffs' complaint, this Court hereby finds:

- 1) Plaintiff's application for preliminary injunction satisfied the cumulative burden of proving each of the four elements for a preliminary injunction.
- 2) There is a substantial likelihood that Plaintiffs will prevail on the merits of their claims because the current districts for the Texas house and Texas senate are unconstitutionally malapportioned, but the Texas Legislature is barred from considering legislative apportionment at this time by operation of the Texas Constitution. .

- 3) If the Preliminary Injunction is not granted, then the Plaintiffs will suffer the irreparable injury of facing voting and residing in malapportioned districts in violation of the “one person, one vote” principle of the 14th Amendment.
- 4) The balance of harms favors the Plaintiffs, because the Plaintiffs are voters in constitutionally overpopulated districts, and there is no current legal plan to ameliorate this constitutional injury.
- 5) The public interest requires ensuring that voters reside in constitutionally permissible districts.

Accordingly, it is hereby ORDERED that Defendants and all their respective officers, agents, servants, employees, attorneys, and persons acting in concert or participation with them are enjoined from using the current malapportioned districts for the Texas House and Texas Senate.

In addition, the Defendants and Plaintiffs are ordered to present alternate interim maps for use during the 2022 election cycle that comply with state and federal law for this Court’s consideration by October 4, 2021.

IT IS SO ORDERED.

DATED this _____ day of _____, 2021 at __:___ AM/PM.

Jerry E. Smith
U.S. Circuit Judge

Robert Pitman
U.S. District Judge

Jeffrey V. Brown
U.S. District Judge